# COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: October 22, 2012

FILE NO:

OFFICE CORRESPONDENCE

FROM:

MICHAEL J. ROTHANS, COMMANDER

FIELD OPERATIONS REGION III

TO: MERRILL E. LADENHEIM, CAPTAIN

LAKEWOOD STATION

## SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:

SH2303930

Incident:

Hit Shooting

Incident Date:

December 28, 2011

Unit:

Lakewood Station / FOR III

Suspect:

Joseph Robert Guevara, M/22

Involved Employees:

Deputy Joseph Esqueda, #

Deputy Victor Fernandez, #

EFRC Date:

October 22, 2012

The Executive Force Review Committee consisting of Commander Michael Rothans, Commander David Fender and Commander Buddy Goldman met and reviewed the above case.

#### FINDINGS:

Based on the deputies pursuing a burglary suspect, and that suspect being armed with a handgun which he fired at the deputies, the Committee determined the force used by Deputy Esqueda and Deputy Fernandez by returning fire at the suspect was objectively reasonable and in compliance with Department Policy. The Committee also determined the tactics used by these deputies were within the Department's training standards.

## RECOMMENDATIONS:

The Committee recommended that Deputy Esqueda and Deputy Fernandez attend the eight hour Tactics and Survival training, class 1. In addition, the Committee recommended the unit commander, Captain Merrill E. Ladenheim, conduct a tactical debriefing with the involved deputies regarding this incident.

MJR:JER:jer

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Deputy Esqueda's IAB Interview Transcript
Deputy Esqueda's Homicide Bureau Interview Transcript
Deputy Fernandez' IAB Interview Transcripts
Deputy Fernandez' Homicide Bureau Interview Transcripts

## **EXHIBITS**

Α	Homicide Bureau Case Book
В	Criminal History Reports - Suspect Joseph Guevera
С	Neighborhood and Area Map
D	Printed Photographs of Scene
E	Sketch of Scene and Evidence Legend
F	CD Containing Photographs of Scene
G	CD Containing Audio Recording of Radio Traffic
Н	CD Containing Audio Recordings of Witnesses', Suspect's, and Deputy's
	Interviews
1	Foot Pursuit Evaluation Form

### MISCELLANEOUS DOCUMENTS

Admonition forms
Lakewood Station In-Service Sheet for 12-28-11, PM Shift
Deputy Daily Work Sheets - Unit 33 and Unit 33T1 - 12-28-11, PM Shift
Unit History Reports - 33, and 33T1 - 12-28-11, PM Shift
Incident Details - Tag 306
Supplemental Report - Test Fire Exam Report
Deputy Esqueda's Firearms Training and Qualification Records
Deputy Fernandez' Firearms Training and Qualification Records
Supplemental Report, Homicide Bureau, Witness Interview
Letter of Opinion - Los Angeles District Attorney

## Los Argeles County Sheriff's Department Officer Involved Shooting

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Report Date:	12-30-	11 Burea	u/Station/Facility:	lake	ewood Stat	ion	Admin. In	vesl.?	Hit?	
相处性的	12-00			Incident Infor						
URN:	011-2	5564-1335-05	5	Date:	12-28	3-11	T	ime:	1630	
City or Station:		Bellflower	Nature of Inciden	t: See Atta	ched Sur	nmary				
Location:	Oak Stre	et		1						
Location Type (circle one or mo Backyard Beach Business Freeway Industrial Park Parking Lot Residence Rural School Street Other: Front	>	Lighting (circle of Darkness Daylight Other Street Lights  Weather (circle Clear Cloudy Fog Rain  Distance: 30-4		Incident Type (ci Accidental Armed Persor Fleeing Suspe Foot Pursul Gun Take Awa Moving Vehice Sniper/Ambus Startle Struggle Invol Traffic Stool Unarmed Pens Unintentional Vehicle Pursu	ay ale sh wed	ore):	Call Obse One Othe Sear Two	Person Unit or ch Warrant Person Unit Activity (circlective ate Transpo	t ele only one):	
Total # of Shots Fired by Deputy Total # of Shots Fired by Suspect Deputy Esqueda - 15 Shots, Deputy Fernandez - 20 Shots 1-3 Shots			Shots	Warning Shot Other:			Aero Unit? Canine Unit?			
			Fig	Employee Wit	tnesses		17, 174 7 17 17	E 9 10 10 10 10 10 10 10 10 10 10 10 10 10		
Employee#	Last	Name	First	Name	M.I.	ShiftTime (cli	rcle only one): M Day		(circle only one): Overtime Off Duty	
Employee#	Last	Name	First	Name	M.I.	ShiftTime (ch	rcle only one): M Dav	ShiftType	(circle only one): Overtime Off Duty	
Employee#	Last	Name	First	Name	M.i.	ShiftTime (cli	rcle only one): M Day	ShiftType	(circle only one): Overtime Off Duty	
			No	π-Employee \	Witnesses					
Last Name	Valenda da 18 1			r 63 /2 · · \$ · · \$ · · · \$ · · · · · · ·		Name		. +131( : 1: 200 4441 400	M.I.	
Street Address			City		ZIp C	ode	Wor	k Ph	Home Ph	
Last Name					First	Name			M.I.	
Street Address			City		Zip C	ode	Wor	k Ph	Home Ph	
Last Name					First	Name			M.J.	
Street Address			City		Zip C	ode	Wor	k Ph	Home Ph	
				Supervis	ors			9007		
Employee #	Last Name		First N	ame	M.I	(circle one			Vitness to shooting	
Employee #	# Last Name First N		ame M.I (circle one On Duty		or more): Witness		vitness to shooting avolved in shooting			
				Watch Ser	The second secon					
Employee #	Last	Vame	Bishop			irst Name	Brian		M.J.	
A Significant			200,000	Watch Comr	nander					
Employee #	Last	Name				First Name			M.I.	
Lindblom			1	Eric F				R		

	PSTD Use Only
SH#	2303930

## Officer Involved Shooting URN: 011-25564-1335-055

				Rollout Informati	ion		
Arrival Date	12-28-11	Arrival Time	1736	Date Submitted	06-12-12	Date of Recommendation	
Employee #	Last Name	Fredericks			First NameSte	efanie	M.I
Employee #	Last Name	Flores			First Nam Ca	ırlos	M.1
Employee #	Last Name	Grote			First Nam Dir	nah	M.I

				Shoot	ing / Force Informa	tion						
Meth	od					Type	of Injur	v		Body	Par	t Injured
(AW) (BC) (BB), (BF) (CCH) (CCT) (CCC) (CTD) (CCC) (CC	Arwen C) Baton: (Control) I), Baton: (Impact) F) Bodily Fluids N) Canine R) Carotid Restraint H) Choke Hold Control Holds: (Control Techniques) T) Control Holds: (Team Takedown) D) Control Holds: (Takedown) E) Chemical C) Chemical Agents (OC Spray) C) Chemical Agents (Tear Gas) X) Explosives H) Firearm (Handgun) R) Firearm (Rifle) S) Firearm (Shotgun) O) Firearm (Other) B) Flashbang L) Flashlight		(OB) O (OO) O (OO) O (PK) P (PS) P (PH) P (PP) P (PS) R (CN) R (RH) R (HB) R (SP) S (SH) S (SG) 3 (SB) S (ST) S (TR)	(OB) Other Weapon: Blunt Object (OO) Other Weapon: Other (PK) Personal Weapon: Feet/Leg: (Kick) (PS) Personal Weapon: Feet/Leg: (Sweep) (PH) Personal Weapon (Hand/Arm) (PP) Personal Weapon (Push) (PO) Personal Weapon (Other) (RS) Resistance (CN) Restraint Device (Capture Net) (RH) Restraint Device (Handcuffs) (HB) Restraint Device: Hobble (Legs Only) (TP) Restraint Device: REACT Beft (SP) Sap (SH) Shield (SG) 37mm Stinger (SB) Sting Ball (ST) Stun Bag (TR) Taser			(AB) Abrasion (BR) Bruise (BU) Burn (CP) Complaint of Pain (CO) Concussion (DH) Death (DI) Dislocation (DB) Dog Bite (FR) Fractures (GS) Gunshot (HB) Human Bite (LC) Lacerations (ND) Nerve Damage (OD) Organ Damage (PA) Paralysis (PW) Puncture Wound (SD) Soft Tissue Damage (ST) Sprain/Twists (UN) Unconscious		(AD) (AK) (AR) (BC) (BC) (BC) (BC) (BC) (BC) (BC) (BC	Abi Anti Bai Bui Ch Elb Fai Fai Fai Ge Gri Hai Hip Inti Kn Ne Sh	Abdomen Ankle Arm Back Buttocks Chest Elbow Face Feet Fingers Genitals Groin Hand Head Hip Internal Knees Leg Neck Shoulder	
Bran (AK) (BR) (BW) (CO) (COA) (HA) (HK) (HK)	AK-47 Benelli Beretts Browning Charter Arms Colt Davis Industries Glock Harrington & Richardson H! Standard H & K Ithica	(IV) (JE) (LU) (MA) (MO) (NC) (NA) (NO) (RA) (RM) (RG)	lver Johnson Jennings Lorcin Luger Martin Mossberg NCI aka SKS North American Norinco Raven Remington RG	(RI) (RO) (SW) (SR) (ST) (TA) (WE) (WN) (US) (YY) (XX) (ZZ)	RGI Rossi Smith & Wesson Sturm Ruger Sterling Taurus Weatherby Winchester US Government Handmade (Inmate) Homemade (Non-Inmate) Other Brand	(10) 1 (12) 1 (20) 2 (21) (22)	Refused I NONE 9 mm 0 mm 2 guage 10 guage 22-250 22 caliber 223 caliber	(24) (25) (30) (35) (38) (40)	.243 cal .25 calii .308 cal .357 cal .30-60 c .38 calii .40 calii	ber liber liber aliber ber	(41) (44) (45) (50) (SL) (WW)	.410 guage .44 caliber .45 caliber 50 mm Slug Other calibe

## FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	ZZ	38	N	N	NN	NN
E#1	S#1	FH	BR	9m	Y	Υ	GS	AD
E#2	S#1	FH	BR	9m	Y	Υ	GS	AD
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		_						

## Officer Involved Shooting Involved Employee Information

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Involved Employee First Name Last Name M.I. Employee E 1 Esqueda Joseph Race: Rank Unit Assignment: Work Assignment (Unit #, Module, etc.): Sex: Lakewood Station Deputy 133 Hispanic ShiftType (circle only one): ShiftTime (circle only one): Substance Used: Intoxication/Drug Usage? (Regular) Overtime Off Duty EM PM Coroner Case # Hospital Name: Coroner Case? Hospital Admission? Interviewed? Hrs of sleep prior to shooting: Duty Time (hrs) Other Factors: Clothing (circle anly one): Unknown Plain Clothes no Vest Raid Jacket w/ Veal Height: Weight: Plain Clothes w/ Vest Uniform no Vest Age: 601 190 Raid Jacket no Vest Uniform w/ Vest PPC Qualification Date: Range Qualification Date: Laser Training Date: Number of Prior Certified with Weapon Patrol Certification? Certification Unit: **Prior Shootings?** Directed Force: Shootings: Used? # Shots 15 # Shots Weapons Fired Weapons Fired Caliber Caliber 9MM Beretta Brand: Brand: M.I. Field Training Officer Emp # First Name Last Name Field Training Officer Emp # First Name M.I. Last Name Last Name **First Name** M.1. Employee # Fernandez Unit Assignment: Work Assignment (Unit #, Module, etc.): Rank Sex: Race: Lakewood Station 133T1 Deputy Hispanic ShiftTime (circle only one) ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? PM Regular Overtime Off Duty Coroner Case # Hospital Name: Interviewed? Hospital Admission? Coroner Case? Other Factors: Hrs of sleep prior to shooting: Duty Time (hrs): Clothing (circle only one): Red Jecket w/ Vest Plain Clothes no Vest 5-8 Uniform no Vest Plain Clothes w/ Vest Height: Weight: 509 200 Raid Jacket no Vest Uniform w/ Vest Range Qualification Date: PPC Qualification Date Laser Training Date: Number of Prior Certified with Weapor Patrol Certification? Certification Unit: Directed Force Prior Shootings? Used? Shootings: # Shots 20 Caliber # Shots Weapons Fired Weapons Fired Caliber 9MM Beretta Brand: Brand: M.t. First Name Field Training Officer Emp Last Name Field Training Officer Emp # First Name M.t. Last Name Last Name First Name Employee # Work Assignment (Unit #, Module, etc.): Unit Assignment: Sex: Race: Rank ShiftTime (circle only one): ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? Off Duty Regular Overtime PM Coroner Case # Hospital Name: Coroner Case? Hospital Admission? Interviewed? Hrs of sleep prior to shooting: Duty Time (hrs): Other Factors: Clothing (circle only one): Raid Jacket w/ Vest Plain Clothes no Vest Plain Clothes w/ Vest Uniform no Vest Age: Height: Weight: Raid Jacket no Vest Uniform w/ Vest PPC Qualification Date: Range Qualification Date: Laser Training Date: Number of Prior Directed Force: Certified with Weapon [ Prior Shootings? Patrot Certification? Certification Unit: Shootings: # Shots # Shots Weapons Fired Caliber Caliber Weapons Fired Brand: Brand: M.I. First Name Field Training Officer Emp # Last Name Field Training Officer Emp # First Name M.I. Last Name

## Officer Involved Shooting Suspect Information

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Suspect Information Last Name Guevera First Name Joseph M.I. S 1 AKA Last Name First Name M.I. "Scrappy" "Payaso" Street Address: State & Zip Code: City Hispanic Bellflower 8819 Oak Street 90706 Work Phone: Home Phone: Social Security # Driver's License Height 03-05-89 504 156 Booking # Primary Charge: Secondary Charge: 664/187 PC 3012349 Substance Used: Methamphetamine Coroner Case # Coroner Case? Intoxication/Drug Usage? Mental Illness? Armed? Apprehended? Criminal History? Model: Vehicle Make Year: N/A Last Name First Name M.L AKA Last Name First Name M.I. Street Address: State & Zip Code: City Sex: Race: Home Phone: Social Security #: Work Phone: Driver's License #: Age: D.O.B. Height: Weight: FBI# CII# Primary Charge: Booking # Secondary Charge: Coroner Case # Substance Used: Intoxication/Drug Usage? Coroner Case? Mental Illness? Criminal History? Armed? Apprehended? Vehicle Make Last Name First Name M.I. AKA Last Name First Name M.I. State & Zip Code: Street Address: City Sex: Race: Home Phone: Social Security #: Driver's License #: Work Phone: D.Q.B. Height Weight: FBI # CII# Age: Primary Charge: Booking # Secondary Charge: Coroner Case # Substance Used: Intoxication/Drug Usage? Coroner Case? Armed? Apprehended? Mental Illness? Criminal History? Vehicle Make M.I. Last Name First Name First Name M.I. **AKA Last Name** City State & Zip Code: Street Address: Race: Sex: Home Phone: Social Security #: Driver's License #: Work Phone: Weight: FBI # CII# D.O.B. Height: Age: Booking # Primary Charge: Secondary Charge: Coroner Case # Substance Used: Intoxication/Drug Usage? Coroner Case? Mental Illness? Criminal History? Armed? Apprehended? Modet: Vehicle Make

## SUPPLEMENT AL NON-EMPLOYEF WITNESSES Los Angeles County Sheriff's Department

Page 5 of 5 Non-Employee Witnesses First Name M.L Zip Code Work Ph Home Ph Street Address M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address M.L Last Name First Name Zip Code Street Address Work Ph Home Ph Last Name First Name M.I. Zip Code Work Ph Home Ph Street Address Last Name **First Name** Street Address Zip Code Work Ph Home Ph Last Name M.I. First Name Street Address Zip Code Work Ph Home Ph First Name M.L Last Name Work Ph Street Address Zip Code Home Ph First Name M.I. Last Name Home Ph Zip Code Work Ph Street Address M.I. Last Name First Name Street Address Zip Code Work Ph Home Ph Last Name First Name M.I. Zip Code Work Ph Home Ph Street Address First Name Last Name Home Ph Street Address Zip Code Work Ph M.L Last Name First Name Street Address Zip Code Work Ph Home Ph First Name M.I. Last Name Zip Code Work Ph Home Ph Street Address M.J. First Name Last Name Home Ph Zip Code Work Ph Street Address M.I. Last Name First Name Home Ph Street Address Zip Code Work Ph M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address



# LOS ANGELES COUNTY DISTRICT A'I FORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney

JACQUELYN LACEY • Chief Deputy District Attorney

PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI . Director

May 3, 2012

Captain David Smith Homicide Bureau Los Angeles County Sheriff's Department 5747 Rickenbacker Road Commerce, California 90040

RE:

J.S.I.D. File No. 11-0822

L.A.S.D. File No. 011-25564-1335-055

## Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 28, 2011, non-fatal shooting of Joseph Guevara. It is our conclusion that Deputies Joseph Esqueda and Victor Fernandez acted in lawful self-defense and defense of another.

The following analysis is based on reports prepared by the Los Angeles Sheriff's Department (LASD), submitted to this Office by Detective Steve Blagg, LASD Homicide Bureau. The District Attorney's Command Center was notified of the shooting on December 28, 2011, at approximately 7:15 p.m. The District Attorney Response Team (DART), comprised of Deputy District Attorney Paul Nunez and District Attorney Senior Investigator Jeffery Scott, responded and was given a briefing and a walk-through of the scene. The voluntary statements of Deputies Esqueda and Fernandez were considered as part of this analysis.

#### FACTUAL ANALYSIS

On December 28, 2011, at 4:04 p.m., LASD Deputy Joseph Esqueda responded to a call that a suspicious man was looking into cars in the area of Pimenta Avenue and Oak Street in the City of Bellflower. When Esqueda arrived at that location in a marked patrol car, he saw Joseph Guevara, who matched the description of the suspicious person.

As Esqueda drove near Guevara, he began running through a parking lot on the east side of Pimenta Avenue that bordered Lakewood Boulevard. Esqueda notified Deputy Victor Fernandez of Guevara's action and possible location.

Esqueda circled the area and observed Guevara moments later walking northbound on Pimenta Avenue towards Oak Street. Fernandez drove his patrol vehicle toward Guevara and attempted Captain David Smith May 3, 2012 Page 2 of 3

to detain him but Guevara ran north and turned west on Oak Street. Fernandez exited his patrol car and chased Guevara on foot.

Witness was in her backyard on Pimenta Avenue when she observed a man peer into her yard over the driveway fence then attempt to open the locked gate. She immediately entered her home to make sure the front door was locked. She looked out her front window and saw a bicycle on her front porch that did not belong to her family. She saw the deputies contact Guevara who then ran from them out of her view on Oak Street.

As Guevara ran, he continued to grab the front waistband of his loose shorts. Guevara ran to mid-block and then hid behind a van parked on the driveway at Oak Street. Guevara pulled a silver object from his front waistband so Fernandez broadcast that Guevara was possibly armed. Esqueda followed Guevara in his patrol car and then repeatedly ordered Guevara to show his hands to the deputies and drop his gun.

Guevara turned, pointed his handgun at the deputies and fired. Both deputies returned fire. Guevara continued to fire at the deputies until he lost control of the gun. The deputies stopped firing and approached Guevara. They handcuffed him and called for an ambulance. Neither deputy was injured. Guevara suffered multiple gunshot wounds to his legs, left hand, and left arm.

Witness	was in her home when she	e heard someone shouting, "Drop the gun, drop
the gun,"	before hearing gunshots. Witness	and his were standing at
the north	west corner of Oak Street and Pimenta A	venue when he saw his Guevara run
from the	deputies down Oak Street.	v Guevara holding a silver handgun flat agains
his chest	as he ran. He saw Guevara hide behind a	a van and saw the deputies give chase before
they orde	ered Guevara to stop and show his hands.	then heard 15-20 shots.

Detectives recovered a .38 caliber revolver where Guevara was hiding. There were three expended casings inside the gun. Deputies found 20 live rounds in Guevara's pockets along with a small screwdriver, a plastic bag of methamphetamine and a narcotics pipe.

#### CONCLUSION

California has well settled law that the use of deadly force in self-defense situations or in the defense of others is permissible if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v. Mercer (1962) Cal.App.2d 153.

informed deputies that he found on his porch a gray sweatshirt and black gloves that did not belong to him.

Captain David Smith May 3, 2012 Page 3 of 3

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. California Criminal Jury Instructions 3470.

Where the peril is swift and imminent and the necessity for action is immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

The evidence examined shows that Deputies Esqueda and Fernandez tried to detain Joseph Guevara during a burglary from a motor vehicle investigation. Guevara fled, then took up a defensive position behind a parked car while armed with a loaded .38 caliber handgun. Guevara ignored repeated commands to drop his gun and instead fired at the deputies. Deputies Esqueda and Fernandez, in fear for their lives and the life of their partner, responded with deadly force.

We conclude that Deputies Joseph Esqueda and Victor Fernandez acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY District Attorney

PAUL NUNEZ

Deputy District Attorney

(213) 974-3888

c:

Deputy Joseph Esqueda, # Deputy Victor Fernandez, #